

# **EXHIBIT 28**

Janet Carson, Esq.

Thomas vs. ECFMG, et al.

January 17, 2014

<p>IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA CIVIL TRIAL DIVISION</p> <p>MATHEW THOMAS, JR. : CIVIL ACTION vs. : NO. 13-3946</p> <p>----- Friday, January 17, 2014 ----- Oral deposition of JANET CARSON, ESQUIRE, held at NATIONAL BOARD OF MEDICAL EXAMINERS, 3750 Market Street, Philadelphia, Pennsylvania, beginning at approximately 2:30 p.m., on the above date, before LANCE A. BRUSILOW, Registered Professional Reporter, Approved Reporter for the United States District Court, and Notary Public, there being present.</p> <p>----- brusilow + associates 255 South 17th Street Suite 1503 Philadelphia, PA 19103 215.772.1717 www.brusilow.com -----</p>	<p>1 (It is hereby agreed by and among 2 counsel that signing, sealing, certification and 3 filing are waived; and that all objections, except 4 as to the form of the question, are reserved until 5 the time of trial)</p> <p>6 JANET CARSON, ESQUIRE, having been 7 first duly sworn, was examined and testified as 8 follows: 9 (EXAMINATION)</p> <p>10 BY DR. THOMAS:</p> <p>11 Q. Hello, Ms. Carson how are you? 12 A. Fine, thank you, Dr. Thomas. 13 Q. For the record, could you please state your 14 full name for the record? 15 A. Janet Duffy Carson. 16 Q. Would you please give me your educational 17 background? 18 A. Sure: I attended undergraduate at 19 Pennsylvania State University and received my BA from 20 there in 1971. I attended Villanova University School 21 of Law and graduated with a JD in 1974. 22 Q. Do you have any other degrees? 23 A. No, I do not. 24 Q. And currently are you working?</p>
<p>APPEARANCES</p> <p>SOUTHERN MEDICAL GROUP BY: MATHEW THOMAS, JR., M.D. 326 East 149th Street Bronx, NY 10541 ph: 718.585.6262 (mthomas1@sbhny.org) Counsel for Plaintiff</p> <p>MORGAN, LEWIS &amp; LEWIS, LLP BY: ELISA P. McENROE, ESQUIRE 1701 Market Street Philadelphia, PA 19103-2921 ph: 215.963.5917 (emcenroe@morganlewis.com) Counsel for ECFMG and William C. Kelly, M.S.</p> <p>HAMBURG &amp; GOLDEN, P.C. BY: MAUREEN P. HOLLAND, ESQUIRE 1601 Market Street, Suite 3310 Philadelphia, PA 19103-143 ph: 215.255.8584 (hollandmp@hamburg-golden.com) Counsel for Gerard F. Dillon, M.D., Steven Haist, M.D. and Janet Carson, Esquire</p> <p>NATIONAL BOARD OF MEDICAL EXAMINERS BY: SUZANNE WILLIAMS, ESQUIRE 3750 Market Street Philadelphia, PA 19104-3102 Ph: 215.590.9538 (swilliams@nbme.org) Counsel for NBME</p>	<p>Page 2</p> <p>1 A. Yes, I am. 2 Q. Do you mind saying what you're working as? 3 A. I'm self-employed. I do legal consulting for 4 organizations involved in testing and certification. 5 Q. Are you a consultant currently for NBME? 6 A. Not currently, no. 7 Q. Will you tell me if you were ever a consultant 8 for NBME? 9 A. Yes: I was a consultant from my retirement in 10 employment at the national board in 2004 until 2010, 11 approximately. 12 Q. Could you tell me your tenure as an employee 13 at NBME? 14 A. I joined the staff of the NBME in 1981 and 15 left in 2004. 16 Q. Thank you. Are there any specific 17 certifications or licenses that you hold in addition to 18 the degrees that you mentioned? 19 A. I certainly hold a license to practice law in 20 the Commonwealth of Pennsylvania. 21 Q. During your twenty-some years here at NBME, 22 can you tell me the different roles that you played? 23 A. My title changed somewhat over time, but 24 essentially I served in the role of general counsel.</p> <p>Page 4</p>

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<p>1 At one point in time I was called consulting legal  2 counsel. At one point I was general counsel and  3 director of the office of examination security. I also  4 served in the capacity of corporate secretary for the  5 board.</p> <p>6 Q. The title secretariat, is that a title you  7 held?</p> <p>8 A. No, I did not.</p> <p>9 Q. Did you work for the office of the  10 secretariat?</p> <p>11 A. I worked as legal counsel for the USMLE  12 program. The secretariat is a function within that  13 program.</p> <p>14 Q. Could you tell me the role that the  15 secretariat would play in terms of any indeterminate  16 scores on the USMLE exam?</p> <p>17 A. The secretariat in general would basically  18 take the cases that were being referred to the  19 committee on either score validity or committee on  20 irregular behavior, would review the information  21 provided and draft a letter to the involved examinee;  22 would organize the meetings of those two committees,  23 provide agenda materials to the committee members;  24 arrange for the appropriate logistics for the meeting;</p>	<p>1 put against them for being a student at Optima  2 University?</p> <p>3 A. Any sanctions that were imposed on those  4 examinees would have been imposed by the committee on  5 score validity or the committee on irregular behavior.  6 It was not the prerogative of staff or of myself to  7 impose sanctions.</p> <p>8 Q. Students who went to Optima University were  9 basically told that their scores were invalidated  10 because of alleged copyright infringement by Optima  11 University.</p> <p>12 Would that list of students come to your  13 office first?</p> <p>14 A. First, as a result of the investigation into  15 Optima, there is identification of examinees who  16 participated in the course and whose scores were the  17 subject of concerns.</p> <p>18 Those examinees and data related to them were  19 reviewed by a staff group to reach a decision as to  20 whether or not the matter should be referred to the  21 committee on score validity for further review and  22 action.</p> <p>23 Q. So, did you get the name of every student who  24 was found to be attending Optima or only those who had</p>
<p style="text-align: center;">Page 6</p> <p>1 following the meeting, would prepare and send letters  2 advising examinees of the outcomes.</p> <p>3 Q. Did they ever do direct investigation with the  4 students at question?</p> <p>5 A. Since I was not the secretariat, I really  6 can't answer that definitively. The process, as I  7 understood it, the role was more oriented towards  8 implementing policies and procedures.</p> <p>9 Q. As the general counsel, did you ever have to  10 interview students that had scores that were  11 indeterminate?</p> <p>12 A. No, not as part of an investigation. No, I  13 certainly would have had some conversations with  14 examinees, but not investigatory.</p> <p>15 Q. Are you aware of the case against Optima  16 University?</p> <p>17 A. In a general way, yes.</p> <p>18 Q. Did you have any direct involvement with the  19 case against Optima University?</p> <p>20 A. No. Other than being informed of its filing  21 and having access to a copy of the complaint, I was not  22 directly involved in the prosecution of that.</p> <p>23 Q. Okay. The students that went to Optima  24 University, did you have a direct role in the sanctions</p>	<p style="text-align: center;">Page 8</p> <p>1 -- how did you phrase it? -- that they found that there  2 would be an issue and they might need to be referred to  3 the committee for score validity.</p> <p>4 A. I really can't recall offhand. We reviewed  5 scores and scores of files. Certainly there were cases  6 that came before that staff group that did not result  7 in referrals to the committee on score validity and  8 some that did result in referrals.</p> <p>9 I can't recall whether information regarding  10 every participant came before that staff group or not.</p> <p>11 Q. Could you tell me who ran the staff group?</p> <p>12 A. It was -- I don't remember all the  13 participants. It included representatives of the  14 Educational Commission For Foreign Medical Graduates,  15 the Federation of State Medical Boards, and the  16 National Board of Medical Examiners.</p> <p>17 Q. Were there specific titles to be part of that  18 committee or --</p> <p>19 A. The individuals who participated were  20 designated by their organizations to be the  21 representatives at those discussions.</p> <p>22 Q. Were you ever part of that committee?</p> <p>23 A. I was present at the meetings of the  24 committee.</p>

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